



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

July 26, 1961

Honorable Patrick A. Myers
County Attorney
Jack County
Jacksboro, Texas

Opinion No. WW-1098

Re: Whether a Commissioners' Court may issue time warrants to secure money with which to satisfy judgments in condemnation suits brought by it to obtain right of way for the construction of a farm-to-market road.

Dear Mr. Myers:

Your letter of June 27, 1961, states that certain condemnation suits brought by Jack County have resulted in judgments against the County, totaling about \$15,000. Under an agreement with the State Highway Department, these suits were brought to procure right of way for a farm-to-market road. Since the County has exhausted the funds available for this purpose, the issuance of time warrants is being considered. Our opinion as to the authority for issuing time warrants in this instance has been requested.

The circumstances are related with more particularity as follows:

- "1. The County's Road and Bridge fund and Lateral road fund (Art. 70~~98~~⁴⁸a) are exhausted.
2. The County now has two condemnation judgments against it for approximately \$15,000.00.
3. Time warrants will be issued to a bank and the money used for payment of the judgments.
4. The bank refuses to loan the money until we obtain an Attorney

General's opinion approving the legality of issuing time warrants.

5. A sinking fund will be created from current taxes or an additional tax levied under Article 7048a.

6. The population of Jack County is approximately 7,000 persons and the assessed tax evaluation just over \$23,000,000.00."

Commissioners' Courts may condemn land for right of way needed for the construction of state highways. Article 6674n, Vernon's Civil Statutes. A farm-to-market road is a state highway. Gill v. Falls County, 243 S.W.2d 277 (Civ.App. 1951.)

The landmark case of Lasater v. Lopez, 110 Tex. 179, 217 S.W. 373 (1919) established that time warrants might be issued by Commissioners' Courts for the construction of roads within their counties. See Article 2351, Subsection 10, Vernon's Civil Statutes.

Attorney General's Opinion No. 0-6834 (1945) held that time warrants could be issued to pay for the purchase of right of way for farm-to-market roads. In this respect we see no material distinction between acquisition by purchase and acquisition by condemnation. Indeed, Article 6674n speaks of securing right of way "by purchase or by condemnation."

It is accordingly our opinion that the paying of judgments in condemnation suits brought to secure right of way for a farm-to-market road constitutes a lawful and proper purpose for the issuance of time warrants by Commissioners' Courts.

S U M M A R Y

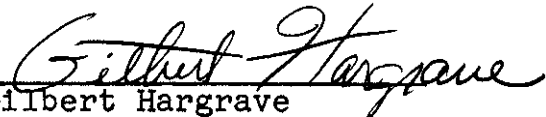
A Commissioners' Court may issue time warrants to secure money with which to satisfy judgments in condemnation suits brought by it to obtain right of way for the construction of a farm-to-market road.

Honorable Patrick A. Myers, page 3 (WW-1098)

Yours very truly,

WILL WILSON
Attorney General of Texas

GH:lgh

By 
Gilbert Hargrave
Assistant

APPROVED:

OPINION COMMITTEE:
W. V. Geppert, Chairman

W. Ray Scruggs
Elmer McVey
John C. Steinberger
Sam Ray Wilson

REVIEWED FOR ATTORNEY GENERAL
BY: Morgan Nesbitt